

## PLANNING COMMISSION MEETING MINUTES

On this the 19th day of August 2015, the Planning Commission of the City of Rosenberg, Fort Bend County, Texas, met in a regular meeting at the Rosenberg City Hall Council Chamber, 2110 4<sup>th</sup> Street, Rosenberg, Texas 77471.

### COMMISSIONERS PRESENT

James Urbish	Planning Commissioner Chairperson
Lester Phipps, Jr.	Planning Commission Vice Chairperson
Wayne Poldrack	Planning Commission Secretary
Sergio Villagomez	Planning Commissioner
Steven Monk	Planning Commissioner
Charlotte Davis	Planning Commissioner

### STAFF PRESENT

Susan Euton	Councilor, District No. 2
Janet Eder	Secretary II
Scott Tschirhart	City Attorney
Linda Cernosek	City Secretary

### OTHERS PRESENT

Ted Garcia	1603 Jones, Rosenberg, Texas
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### CALL TO ORDER

Vice Chairperson Phipps called the meeting to order at 4:05 p.m.

### AGENDA

#### 1. CONSIDERATION OF AND ACTION ON THE ELECTION OF A CHAIRPERSON, VICE CHAIRPERSON, AND SECRETARY FOR THE ROSENBERG PLANNING COMMISSION. (JANET EDER, SECRETARY)

**Executive Summary:** This item has been included to allow the Planning Commission to select a Chairperson, Vice Chairperson, and Secretary.

#### Duties of Each Position:

Chairperson. The Chairperson will conduct the meetings, maintain order during the meetings, call for motions, seconds, and votes. The Chairperson will review the Planning Commission Agenda the week before the meeting and inform staff of any modifications. The Planning Commission Chairperson also signs final plats prior to the plat being recorded at the County Clerk's office.

Vice-Chairperson. The Vice-Chairperson will perform the duties listed above for the Chairperson in his or her absence.

Secretary. The Secretary does not have any official duties during the meeting. The Secretary signs final plats along with the Chairperson prior to the plat being recorded at the County Clerk's office.

Staff recommends that the Commissioners nominate and vote to select these officers for the Planning Commission.

**Action Taken:** Commissioner Poldrack moved, seconded by Commissioner Davis, to nominate James Urbish to serve as Planning Commission Chairperson. The motion carried unanimously.

**Action Taken:** Commissioner Poldrack moved, seconded by Commissioner Urbish to nominate Lester Phipps, Jr. to serve as Planning Commission Vice Chairperson. The motion carried unanimously.

**Action Taken:** Commissioner Urbish moved, seconded by Commissioner Phipps to nominate Wayne Poldrack to serve as Planning Commission Secretary. The motion carried unanimously.

**2. CONSIDERATION OF AND ACTION ON MINUTES OF THE REGULAR PLANNING COMMISSION MEETING OF JULY 15, 2015.**

**Action Taken:** Vice Chairperson Phipps moved, seconded by Commissioner Poldrack, to approve the minutes of the Regular Planning Commission Meeting of July 15, 2015, as written. The motion carried unanimously.

**3. HOLD PUBLIC HEARING ON A PRELIMINARY PLAT OF TRAN PLAZA, A SUBDIVISION OF 9.9985 ACRES (435,538 SQ. FT.) TRACT OF LAND SITUATED IN THE S.A. AND M.G.R.R. COMPANY SURVEY, ABSTRACT 330, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, SAID 9.9985 ACRE TRACT BEING OUT OF AND PART OF LOT 60 AND A PORTION OF LOT 69 OF THE SLAVIN AND GEORGE SUBDIVISION, RECORDED IN VOLUME 64, PAGE 252 OF THE DEED RECORDS OF FORT BEND COUNTY, TEXAS; 1 BLOCK, 1 RESERVE.**

**Executive Summary:** The Preliminary Plat of Tran Plaza is a proposed replat consisting of 9.9985 acres located off of Anton Stade Road, south of Randon School Road. As a general point of reference, this is located not far from the intersection of I-69/US 59 and Spur 10.

Because this is a partial replat of a previous subdivision (Slavin and George Subdivision), a public hearing is required per state law and per the City's "Subdivision" Ordinance. That said, staff recommends holding the hearing prior to the Planning Commission taking action on the Plat in a subsequent Agenda item in accordance with State law and City ordinance.

**Key Discussion:**

- Mr. Tanner presented the item and reviewed the Executive Summary.

*Chairperson Urbish opened the public hearing at 4:11 p.m. After two calls for speakers, no one stepped forward. Chairperson Urbish closed the public hearing at 4:13 p.m.*

**4. CONSIDERATION OF AND ACTION ON A VARIANCE REQUEST FOR A CARPORT ADDITION LOCATED AT 1509 GEORGE STREET.**

**Executive Summary:** A Variance Request has been submitted for a proposed carport addition at 1509 George Street. A vicinity map of the property, application materials, and photos are attached for review. The property is located on the east side of George Street between Avenue M and Dyer, and across the street from Holy Rosary Church.

The subdivision, Allendale Manor, was originally platted in 1949. Due to the age of the subdivision, an image of the plat is not available on the County website. However, based on adjoining plats and other subdivisions platted around the same time and for which images are available, it is unlikely that there are platted building lines (or setbacks). The current "Subdivision" Ordinance (Code of Ordinances, Ch. 25, Sec. 25-68) requires a 25' front building line on single-family residential lots. This requirement appears to have been in place since 2005 and, to staff's knowledge, has been enforced consistently since that time.

The property itself appears to have an approximately 23' front setback and the owner wishes to construct a carport approximately 5' from the right-of-way line. Upon further investigation of the area, staff found the following:

- There are ten (10) nonconforming carports within approximately three (3) blocks, or within approximately 1,000, on George Street.
- There are eighteen (18) nonconforming carports within approximately five (5) blocks, or within approximately 1,500', on George Street.

The above is likely because many of the homes either have no garage, have a relatively small garage (i.e., one-car), or have a garage that has been enclosed. *Setbacks and building lines are generally applied to maintain a consistent residential character. However, in this case, the residential character to date includes a relatively high number of carports.*

Variances must be evaluated by the Planning Commission based on the four (4) criteria outlined in the Code (Sec. 25-8). Following is staff's analysis of each of the criteria.

**(1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;**

*The applicant has claimed in their application a lack of protection from rain and extreme temperatures. It could also be claimed that the neighborhood being highlighted by many existing/nonconforming carports is unique. Further, it could be argued that it is unreasonable to not allow the property owner to use their land consistently with surrounding properties, unless the Commission believes the proposed and existing carports are in any way detrimental to the area (and thus their existence should not be promoted in the future).*

**(2) The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area;**

*Staff cannot identify any safety concerns or specific negative impacts associated with this request (based in part on many of the nearby properties also having carports without any apparent issues). The applicant claims it will be structurally sound; additionally, it will be required to comply with applicable international codes and would be inspected by the City.*

**(3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and**

*The granting of the variance should not prevent orderly subdivisions in the area. New subdivisions are required to have building lines in accordance with City codes and in that way are not the same as older subdivisions with lesser or nonexistent building lines. Applicant claims no existing carports in the neighborhood are close to meeting the required setback, which is an accurate statement. They (carports) appear to range from zero (0) to five (5) feet from the street right-of-way.*

**(4) A more appropriate design solution exists which is not currently allowed in this chapter.**

*The proposed design solution does not appear to be inappropriate for the particular area. It has apparently not been deemed inappropriate for the area in the past (pre-2005).*

Staff has no objection to the proposed variance with the condition of a minimum five (5) foot setback from the right-of-way. Lack of objection is based on the surrounding residential character and not being inconsistent with the four (4) criteria as outlined in the Code. The condition of having a five (5) foot setback is recommended to comply with international code requirements. With the latter condition in place, staff sees no further issues.

**Key Discussion:**

- Mr. Tanner presented the item and reviewed the Executive Summary.
- Mr. Tanner presented photos of the property in question, along with other photos of existing homes in the general vicinity.
- Commissioner Poldrack inquired if the posts for the carport addition would be wood or steel.
- Mr. Tanner stated that he could ask the applicant about the construction material. Mr. Tanner stated that he believes the posts would be steel. Mr. Tanner stated that the carport would not be enclosed. The carport would be used primarily for protection against the weather.
- Vice Chairperson Phipps stated that the criteria for the variance request had not been met and that the applicant had not been deprived of any reasonable use of his land.
- Vice Chairperson Phipps stated that he was not in favor of passing the variance request, and that the request should be addressed by City Council.
- Commissioner Villagomez inquired about the five (5') setback.
- Mr. Tanner explained that the structure would require a minimum five (5') setback from the right-of-way.
- Commissioner Villagomez inquired about setback requirements in 2005.
- Mr. Tanner explained that Allendale Manor did not have setback requirements prior to 2005. The code requirement was adopted in 2005.
- Councilor Euton stated that if the proposed variance request was approved by both the Planning Commission and City Council, what standards would be required by the homeowner.
- Mr. Tanner replied that the homeowner must comply with international codes.
- Mr. Tschirhart explained that the variance could specify a particular design where it would not conflict with other designs in the area.
- Commissioner Villagomez inquired if the homeowner was elderly.
- Mr. Tanner replied that the homeowner was elderly, however, age was not taken in to consideration.

- Chairperson Urbish stated that other homeowners on the street have the benefit of a carport, while the homeowner at 1509 George Street does not.
- Chairperson Urbish stated that he was in favor of approving the variance request.
- Commissioner Poldrack stated that the neighborhood is very old, and many of the homes have single-car garages or have converted the garage to a living area. Commissioner Poldrack would prefer that homeowner(s) have a carport as opposed to parking in the street.

**Action taken:** Commissioner Poldrack moved, seconded by Commissioner Villagomez to approve the Variance Request for a proposed carport addition located 1509 George Street. The motion carried by a vote of five "ayes" to one "no". **AYES:** Chairperson Urbish, Commissioners Poldrack, Davis, Villagomez, and Monk. **NO:** Vice Chairperson, Phipps.

**5. CONSIDERATION OF AND ACTION ON A PRELIMINARY PLAT OF CVS STORE #10637, A SUBDIVISION OF 2.091 ACRES OF LAND BEING A PORTION OF A CALLED 173.34 ACRE TRACT RECORDED IN THE NAME OF CL WATERFORD, LLC C.F. NO. 2010054252, F.B.C.O.P.R. LOCATED IN THE ROBERT E. HANDY SURVEY, ABSTRACT NO. 187, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS; 1 BLOCK, 0 LOTS, 1 RESERVE.**

**Executive Summary:** The Preliminary Plat of CVS Store #10637 consists of 2.091 acres of land located at the southeast intersection of Reading and Spacek Roads. This location is generally across Reading Road from Kroger.

As seen in the plat description, this is just over two (2) acres being platted for the purpose of developing a CVS store. The site will have its access from two (2) proposed thirty-foot (30') access easements which are in alignment with the existing median openings in Reading and Spacek Roads and in compliance with the City driveway separation standards. Notably, due to existing level of service at the intersection, development of the site will require the installation of a traffic signal. The applicant is aware of this and intends to submit plans for the signal to the City. Development would be contingent on the signal installation.

While the main purpose of the plat is simply to plat out raw acreage for this development (existing utilities are in place to serve the tract), the property is located Fort Bend County MUD No. 144 and will therefore be subject to its development standards, which are generally more stringent than City standards (e.g., landscaping and masonry requirements).

Seeing no issues in conflict with City ordinances, staff recommends approval of the Preliminary Plat of CVS Store #10637.

**Key Discussion:**

- Mr. Tanner presented the item and reviewed the Executive Summary.
- Commissioner Poldrack inquired if NewQuest would be responsible for paying for the traffic signal.
- Mr. Tanner replied that once an intersection reaches a certain level of service, the developer or developers in the area would be responsible for paying for the traffic signal prior to future development.
- Commissioner Poldrack inquired if CVS would be responsible for paying for the traffic signal.
- Mr. Tanner replied that the developer of the property or CVS would be responsible for paying for the traffic signal. Other developers in the same area may also be responsible if an agreement is reached.
- Commissioner Poldrack inquired if the City would be responsible for the implementation of a traffic signal.
- Mr. Tanner replied that neither the City nor the Rosenberg Development Corporation (RDC) would be held responsible for paying for the traffic signal unless a proposal requesting funding was received and agreed on by the parties. There has been some past discussion on the topic, but an agreement has not been determined or reached at this time.

**Action taken:** Vice Chairperson Phipps moved, seconded by Commissioner Villagomez to approve the Preliminary Plat of CVS Store #10637, a subdivision of 2.091 acres of land being a portion of a called 173.34 acre tract recorded in the name of CL Waterford, LLC C.F. No. 2010054252, F.B.C.O.P.R. located in the Robert E. Handy Survey, Abstract No. 187, City of Rosenberg, Fort Bend County, Texas; 1 block, 0 lots, 1 reserve. The motion carried unanimously.

**6. CONSIDERATION OF AND ACTION ON A PRELIMINARY PLAT OF TRAN PLAZA, A SUBDIVISION OF 9.9985 ACRES (435,538 SQ. FT.) TRACT OF LAND SITUATED IN THE S.A. AND M.G.R.R. COMPANY SURVEY, ABSTRACT 330, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, SAID 9.9985 ACRE TRACT BEING OUT OF AND PART OF LOT 60 AND A PORTION OF LOT 69 OF THE SLAVIN AND GEORGE SUBDIVISION, RECORDED IN VOLUME 64, PAGE 252 OF THE DEED RECORDS OF FORT BEND COUNTY, TEXAS; 1 BLOCK, 1 RESERVE.**

**Executive Summary:** This agenda item consists of a Preliminary Plat of Tran Plaza, which also happens to be a partial replat of Slavin and George Subdivision, hence the previous Public Hearing item on the Agenda. As discussed, the property (9.9985 acres total) is located off of Anton Stade Road, south of Randon School Road.

The Plat has its frontage (only 214') on Anton Stade Road. However, the site is over 2,000' in depth. The property is being restricted by way of this plat to commercial use. The proposed Plat also provides for dedication of a thirty-foot (30') strip of right-of-way for Anton Stade Road. The reason for this is that Fort Bend County's Thoroughfare Plan classifies this road as a 120' Major Thoroughfare. With the existing right-of-way width being 60', an additional 30' is required on each side.

The Plat is approximately one-third in the City limits, with the remaining approximately two thirds being in the Extraterritorial Jurisdiction (ETJ). Specifically, it is the rear part of the plat that is located in the City.

Seeing no issues in conflict with City ordinances, staff recommends approval of the Preliminary Replat of Tran Plaza.

**Key Discussion:**

- Mr. Tanner presented the item and reviewed the Executive Summary.
- Commissioner Villagomez inquired about the plat design and the proposed use of the land.
- Mr. Tanner replied that the Preliminary Plat of Tran Plaza is a commercial property, which is both in the City and ETJ. There is no zoning ordinance in the City of Rosenberg, so the City cannot restrict what will be built on the site. The ordinance, however, requires that the developer state what the property will be used for. The developer must also go through a site plan process once the development begins.
- Commissioner Villagomez inquired if there would be any tax disadvantages for the City since the property is partially within the ETJ.
- Mr. Tanner does not believe there would be any disadvantages. Most construction in the development would be built outside the City, so development would follow County guidelines.
- Vice Chairperson Phipps inquired if the City would be responsible for providing utilities, including water and sanitary sewer.
- Mr. Tanner replied that the property does not have City utilities nearby.
- Commissioner Poldrack inquired about the use of the property.
- Mr. Tanner was not aware of the proposed use.
- Chairperson Urbish stated that storage warehouses may possibly be built on the property since the property was very narrow.
- Commissioner Villagomez inquired about the land surrounding Tran Plaza and if the property was located in the City or ETJ. Commissioner Villagomez also inquired if the property was residential or commercial.
- Mr. Tanner replied that most of the land surrounding the property was rural, some of which is in the City limits and some in the ETJ.

**Action taken:** Vice Chairperson Phipps moved, seconded by Commissioner Poldrack to approve the Preliminary Plat of Tran Plaza, a subdivision of 9.9985 acres (435,538 sq. ft.) tract of land situated in the S.A. and M.G.R.R. Company Survey, Abstract 330, City of Rosenberg, Fort Bend County, Texas, said 9.9985 acre tract being out of and part of Lot 60 and a portion of Lot 69 of the Slavin and George Subdivision, recorded in Volume 64, Page 252 of the Deed Records of Fort Bend County, Texas; 1 block, 1 reserve. The motion carried unanimously.

## **7. CONSIDERATION OF AND ACTION ON REQUESTS FOR FUTURE AGENDA ITEMS.**

**Executive Summary:** This item allows the Planning Commission the opportunity to request that items be placed on future agendas.

**Key Discussion:**

- Commissioner Poldrack inquired about street widths.
- Mr. Tanner replied that a future City Council Workshop would address street width issues, upon completion of the budget process. A City ordinance would then be considered.
- Commissioner Poldrack inquired about drive-over curbs.
- Chairperson Urbish remarked that developers do not want to make curb cuts.
- Commissioner Poldrack asked Commissioners about drive-over curbs. Commissioner Poldrack stated that drive-over curbs look cheap and that the curbs encourage residents to park in the yard.

- Vice Chairperson Phipps inquired about when a discussion concerning wider streets would be presented to the City, and if an environmental survey would be conducted, along with the drainage issues being addressed.
- Mr. Tanner replied that implementation of widening streets must meet drainage criteria and would likely require greater drainage requirements due to more pavement.
- Commissioner Poldrack inquired about information regarding drainage retention.
- Mr. Tanner replied that street widths have been discussed with Mr. Kalkomey, City Engineer.
- Commissioner Poldrack inquired about the ramifications for the street width.
- Chairperson Urbish suggested that residents living in older subdivisions need to follow the variance request process and make a recommendation to the Planning Commission.
- Councilor Euton questioned shared parking spaces and when the topic would be discussed.
- Mr. Tanner replied that shared parking would need to be presented at the Planning Commission prior to going to City Council.
- Mr. Tschirhart stated that the previous ordinances need to be updated, especially for developments that have been dormant for two years or more.

***No action taken.***

**8. ANNOUNCEMENTS.**

There were no announcements.

**9. ADJOURNMENT.**

There being no further business, Chairperson Urbish adjourned the Rosenberg Planning Commission meeting at 4:52 p.m.



Janet Eder  
Secretary II